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Practitioner's Docket No. 17396/09015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Maurice R. De Billot, Schalk Van Wyk, Theunis M. Odendaal, Dennis Paul  
Phillion, Jeffrey S. Coultas, Ernest F. Sanders, Greg A. Penner, Jawed Asrar, and  
Michael K. Stern.

Application No.: 10/026,301                      Group No.: 1616  
Filed: 12/19/2001                      Examiner: Pryor, Alton N.  
For: METHOD OF IMPROVING YIELD AND VIGOR OF PLANTS

Commissioner for Patents  
Washington, D.C. 20231

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that the attached correspondence comprising:

- 1. Response to Requirement for Election of Species (2 pages)
- 2. Return Postcard (1 page)

is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

Commissioner for Patents  
Washington, D.C. 20231

on Apr. 23, 2003.

Anna A. Von  
  
Signature of person mailing paper



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In re application of DeBillot *et al.*

Serial No. 10/026,301

Filed: December 19, 2001

For: Method of improving yield and  
vigor of plants

Group Art Unit: 1616

Examiner: Alton N. Pryor

Our Ref: 17396/09015

Deposit Acct. No. 50-2548

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**RESPONSE TO REQUIREMENT FOR ELECTION OF SPECIES**

This is filed in response to the requirement for election of species that was asserted in the Office Action having a date of mailing of March 26, 2003, and is believed to address each and every issue that was raised in that Action. It is respectfully requested that the election of species that is described below be entered into the case and that the claims be examined and considered and be found to be allowable.

**Election of species under 35 USC §121:**

In response to the requirement for the election of species, the Applicant hereby elects 4,5-dimethyl-N-2-propenyl-2-trimethylsilyl-3-thiophenecarboxamide (which may also be called silthiofam, or silthiopham) as the fungicide which has no significant activity against plant pathogens for such agronomic plant [which is the subject of treatment].

The Action also mentions the requirement that Applicant must specifically name or define additional ingredients, and that claims listing additional ingredients will be classified as non-elected without such name or definition. Applicant specifically names soybeans as the plant, *Bradyrhizobium japonicum* as the inoculum, captan as the

[additional] fungicide, and glyphosate resistance as the transgenic event, as additional elements in claims in which those elements are features.


The Applicant believes that claims 1 – 3, 13 – 20, 23 – 72, and 75 read on the elected fungicide species (4,5-dimethyl-N-2-propenyl-2-trimethylsilyl-3-thiophenecarboxamide (silthiofam, or silthiopham)), or are generic for such species.

Request for consideration:

Applicant respectfully requests that the claims be considered and be found to be allowable. If one or all of the claims are deemed not to be allowable, the Examiner is invited to contact the undersigned attorney at the telephone number given below for the purpose of resolving any remaining issues.

Respectfully requested,  
NELSON MULLINS RILEY & SCARBOROUGH

23 April 2003  
Date

  
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